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REPORT OF THE ECONOMIC AND SOCIAL COUNCIL

Situation of human rights in Afghanistan

Note by the Secretary-General

The Secretary-General has the honour to submit to the members of the General Assembly the interim report on the situation of human rights in Afghanistan prepared by Mr. Felix Ermacora, Special Rapporteur of the Commission on Human Rights, in accordance with Commission on Human Rights resolution 1990/53 of 6 March 1990, and Economic and Social Council decision 1990/234 of 25 May 1990.

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I. INTRODUCTION

1. The Special Rapporteur was first appointed in 1984 by the Commission on Human Rights to examine the human rights situation in Afghanistan. Since then, his mandate has been renewed regularly by various subsequent resolutions of the Commission on Human Rights and the Economic and Social Council, and he has been requested to report to the Commission on Human Rights and to the General Assembly. So far, the Special Rapporteur has submitted six reports to the Commission on Human Rights (E/CN.4/1985/21, E/CN.4/1986/2, E/CN.4/1987/22, E/CN.4/1988/25, E/CN.4/1989/24 and E/CN.4/1990/25) and five reports to the General Assembly (A/40/843, A/41/778, A/42/667 and Corr.1, A/43/742 and A/44/669).

2. During its forty-sixth session, the Commission on Human Rights decided in its resolution 1990/53 to extend the mandate of the Special Rapporteur for one year, an extension that was confirmed by the Economic and Social Council in its decision 1990/234.

3. At its forty-fourth session, after considering the report submitted to it by the Special Rapporteur, the General Assembly adopted resolution 44/161 of 15 December 1989, in which it decided to keep under consideration the situation of human rights in Afghanistan, in order to examine it anew at its forty-fifth session in the light of additional elements provided by the Commission on Human Rights and the Economic and Social Council.

4. Accordingly, the Special Rapporteur has the honour to submit his report to the General Assembly in compliance with Commission on Human Rights resolution 1990/53 and General Assembly resolution 44/161.

5. Subsequent to the renewal of his mandate by the forty-sixth session of the Commission on Human Rights and in accordance with past practice, the Special Rapporteur again visited the area in order to obtain the most broadly based information possible. His visit to Pakistan took place from 13 to 22 September and to Afghanistan from 22 to 27 September 1990. It should be noted that this is the first time the Special Rapporteur has been able to visit areas in Afghanistan not under government control, that is, in the provinces of Kunar and Kandahar.

6. During his visit to Pakistan, following the established schedule, the Special Rapporteur was received by representatives of the Ministry of Foreign Affairs and by the Chief Commissioner for Afghan Refugees.

7. In the North-West Frontier Province, the Special Rapporteur met with the Regional Commissioner for Afghan Refugees and visited the Shamshattoo Refugee Village where he spoke with refugees from different areas of Afghanistan. He also visited the Risalpur De-Mining Training Camp. He also visited the International Committee of the Red Cross (ICRC) Surgical Hospital for War-Wounded and the Psychiatric Centre for Afghans, and had talks with representatives of various humanitarian organizations based in Peshawar.

8. In Peshawar, the Special Rapporteur met with Professor B. Rabbani and General Jal, representing the so-called Interim Government of the Islamic Republic

of Afghanistan (Alliance of Mujahidin), with whom he exchanged views on the overall situation in the country.

9. In Baluchistan province, the Special Rapporteur met the Regional Commissioner for Afghan Refugees and visited the Al-Salam Saudi Hospital and the ICRC Surgical Hospital for War-Wounded.

10. During his visit to Afghanistan, the Special Rapporteur was received, in accordance with the programme established in consultation with the Afghan authorities, by the President of Afghanistan, the Minister of Foreign Affairs, the Minister of Justice, the Minister for State Security, the Minister of the Interior, the Minister of Defence, the Minister for Repatriates' Affairs and the Minister for Higher and Vocational Education. He also met with representatives of the Commission for De-Mining, the Supreme Council for Religious Scholars of Afghanistan, the National Salvation Front and the Lawyers' Association of Afghanistan.

11. In Kabul, the Special Rapporteur visited the Pol-i-Charkhi prison and the "400-bed" Military Medical Academy. He also visited the Indira Gandhi Hospital and the ICRC Surgical Hospital for War-Wounded and met with representatives of the Afghan Red Crescent Society. In Balkh province, he visited Mazar-i-Sharif and met with representatives of the local administration, including the governor. The Special Rapporteur also visited Herat airport where he observed an airlift of refugees and interviewed returnees.

12. The Special Rapporteur had the occasion to visit for the first time the following areas in Afghanistan not under government control: Asadabad district in Kunar province and Arghestan district in Kandahar province.

13. During his visits, the Special Rapporteur received full co-operation from the governmental authorities of Afghanistan and Pakistan, who did everything possible to ensure that his programme conformed in every detail with the wishes he had expressed. The Special Rapporteur particularly appreciated the possibility given to him to visit regions not under government control in the Kunar and Kandahar provinces in Afghanistan. In this respect, he once again wishes to thank the Office of the Co-ordinator for United Nations Humanitarian and Economic Assistance Programmes Relating to Afghanistan for its most efficient logistic assistance, without which these visits could not have been possible.

14. For the purpose of drafting the present report, which is the sixth report to the General Assembly on the situation of human rights in Afghanistan, in addition to gathering information during the visits to Pakistan and Afghanistan, the Special Rapporteur followed the course of events throughout the period covered by the report and systematically evaluated written and oral information relevant to his mandate received from various individuals and organizations.

15. Aware that the situation in Afghanistan is evolving, the Special Rapporteur in chapter II describes the human rights situation in the general political context, analyses the situation of the refugees, and assesses the human rights situation in the government-controlled areas, combat areas and in the regions not under government control. Chapter III contains conclusions and recommendations within

the purview of his mandate, based on his analysis of the available information and on a review of the steps that could be taken.

II. EVALUATION OF THE PRESENT SITUATION OF HUMAN RIGHTS IN AFGHANISTAN

A. General

16. For almost 10 years there has been a conflict of dramatic dimensions in Afghanistan, which has had consequences that are still visible throughout the country: destruction of towns, villages and property, a devastated economy, innumerable deaths, disappearances, prisoners whose fate is unknown, injuries requiring amputation. The situation in the country is one in which human rights and principles of humanitarian law are affected to an extent that cannot but shock all who observe it. Without entering into the question of responsibility for the human rights situation in the country, it seems that the interest of the world for this situation has steadily declined since the withdrawal of the Soviet troops one and a half years ago, and since the new events taking place in Europe and the Middle East have assumed paramount importance.

17. The purpose of the present report is to focus once again on the main problems of the very complex human rights situation in the country. The same human rights problems that the Special Rapporteur reported on to the last session of the General Assembly and which are part of a general human rights pattern still prevail:

(a) The existence of millions of refugees, which in itself constitutes a human rights issue;

(b) The continuation of armed conflict opposing the Government and opposition groups, both supported by super-Powers, which causes destruction, loss of life and permanent anxiety among the population in the areas concerned;

(c) The attempts to normalize life in government-controlled areas and to maintain law and order result in actions directed against those who oppose governmental authority or have ideas considered not in conformity with the Constitution;

(d) The continuation of acts of terrorism, which affect the civilian population of all major cities and villages, including persons who do not want to be involved in the conflict;

(e) The painful economic, social and cultural situation in many parts of the country affecting a large segment of the population, particularly in areas not under government control;

(f) The fact that the right to self-determination can still not be achieved as a result of the deep division of the people of Afghanistan.

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18. Mention must be made of the efforts to foster international co-operation by United Nations bodies and non-governmental organizations on the one hand and in particular those made by Governments on the other. Their aim is to mitigate the adverse effects of the conflict. However, many efforts of this kind are thwarted by the sending of arms supplies and the difficulty of arriving at a comprehensive cease-fire.

19. In the following chapters, the Special Rapporteur wishes to provide specific information concerning the above-mentioned problems. It is based mainly on his visits to the field, on the numerous discussions he had during visits to refugee camps, prisons and hospitals, as well as the impressions he obtained while studying the situation of human rights in different parts of Afghanistan.

20. For a better understanding of the prevailing human rights situation in Afghanistan, reference must be made to the fact that the Government of Afghanistan is not in a position to exercise full control in all parts of the country. The question of jurisdiction is dealt with in the International Covenants on Human Rights (resolution 2200 A (XXI), annex). Article 2 of the International Covenant on Civil and Political Rights (ibid.), to which Afghanistan is a party, states that "each State Party ... undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant". Even if the Government does not have effective governing power over the whole of its territory, this does not mean that it has renounced its territorial sovereignty, despite the fact that certain areas of Afghanistan are partly or fully under the control of opposition groups. These groups are equally bound by international human rights standards and the principles of human rights enshrined in the various international instruments.

21. Information received from several sources suggests that the Government is in control of the Kabul area, the main highways and all provincial capitals except Asadabad (Kunar province) and, according to the most recent information, Tarin Kot (Uruzgan province). It is the Special Rapporteur's impression that there is a functioning administration trying to implement the law and ensure public order in all government-controlled areas. However, in areas not under government control or so-called "peace zones", which the opposition calls "liberated areas", the administration is left to local or tribal authorities and, in many instances, to military commanders. This type of authority has a meaning in terms of civil administration only in areas where the civilian population has not left or to which refugee families have returned. A well-informed source told the Special Rapporteur that there are almost 140 "governments" in Afghanistan. The Government claims that it maintains indirect contacts with the opposition groups and that it shares with them the responsibility for human rights in areas under their control. The Government affirms that since the proclamation of the policy of reconciliation, it avoids gaining control of these areas through a military take-over. Incidents concerning human rights violations must therefore be considered on a case-by-case basis.

22. The Office of the United Nations High Commissioner for Refugees (UNHCR) has conducted in-depth studies of the situation in several provinces in Afghanistan. The data collection for the Afghan Repatriation Project encompasses reports with 14

province profiles. These reports provide an excellent insight into the factual situation prevailing in various provinces. The Special Rapporteur wishes to make particular reference to the reports on Kunar province and Kandahar province, which he has visited.

B. The situation of refugees

23. The situation of Afghan refugees is an important human rights problem. The Special Rapporteur, aware of this situation, has already reported several times that the refugees, and in particular those who are residing in camps and are not integrated in the local society, are exposed to hardships that generate human rights problems. This involves the right of liberty of movement and the freedom to choose one's residence (art. 12 of the International Covenant on Civil and Political Rights), the rights of families, the rights of children and a series of social, cultural and economic rights. The situation of widows was reviewed in the last report to the General Assembly (see A/44/699, paras. 31 et seq.). In this respect, no substantial changes have been observed. Indeed, the aid from international organizations, non-governmental organizations and Governments is decreasing. In addition, health is reported to be deteriorating in the camps, where cases of malnutrition, malaria and tuberculosis have been registered, as well as a number of deaths among children this summer due to the heat. It has also been alleged that shrubs are now being burned in the camps for lack of firewood, which could have adverse consequences on the ecological balance in the surrounding areas.

24. On this occasion the Special Rapporteur did not visit refugee camps in the Islamic Republic of Iran.

25. The total of so-called registered refugees in Pakistan is still around 3.2 million, with the number of unregistered refugees standing at about 500,000. The breakdown of refugees living in Pakistan by province is as follows: 2,243,556 in the North-West Frontier Province; 850,000 in Baluchistan; 179,500 in the Punjab and 18,600 in Sind. Since the Special Rapporteur did not this time visit refugee camps in the Islamic Republic of Iran, reference is made to the information contained in paragraph 34 of his last report to the General Assembly (A/44/669), in which the number of Afghan refugees in that country was given as 2.3 million.

26. Article I of instrument II of the Geneva Agreements on the settlement of the situation relating to Afghanistan provides that "all Afghan refugees temporarily present in the territory of the Islamic Republic of Pakistan shall be given the opportunity to return voluntarily to their homeland in accordance with the arrangements and conditions set out in the present Agreement" (S/19835, annex I). In his last report to the General Assembly (A/44/669, para. 26), the Special Rapporteur stated, inter alia, "the fact is that the refugees have not returned in the massive numbers expected after the withdrawal of Soviet troops from Afghanistan". In his last report to the Commission on Human Rights (E/CN.4/1990/25, para. 16), he stated that "this return has still not taken place in any significant numbers".

27. In 1990, it appears that no new refugees arrived in Pakistan and that the trend of return to Afghanistan is gaining momentum. A note on voluntary repatriation to Afghanistan issued by UNHCR, the office of the Co-ordinator for United Nations Humanitarian and Economic Assistance Programmes Relating to Afghanistan and the World Food Programme (WFP) in July 1990 reported that "the United Nations has observed over the last few months that a large number of families has been returning to Afghanistan each day, mainly from Baluchistan, but also from the North-West Frontier Province of Pakistan". This movement, which has been described as spontaneous, is due in part to the launching of a pilot project on voluntary repatriation to Afghanistan, established for the period 15 July to 15 October 1990 by the United Nations High Commissioner for Refugees, the United Nations Co-ordinator for Humanitarian and Economic Assistance Programmes relating to Afghanistan, and the Executive Director of WFP, in co-operation with the Government of Pakistan.

28. Pakistani sources indicate that an average of 250 families have been leaving Pakistan on a daily basis since July 1990, which amounts to approximately 1,700 persons. The Office of the High Commissioner for Refugees informed the Special Rapporteur that the total number of refugees returning between 23 July and 17 October 1990 was about 11,000 families. Under the above-mentioned pilot project, each returning family receives a one-time repatriation grant of PRs 3,300 in cash and a food assistance package of 300 kg of wheat against the surrender of their ration passes to the competent authorities at designated departure points. There are six such departure points in the North-West Frontier Province (Chitral, Khar Bajaur, Landi Kotal, Parachinar, Miranshah and Wana) and 10 in Baluchistan province (see annex I).

29. The Special Rapporteur had the opportunity to discuss these problems once again with the Afghan Minister of Repatriates' Affairs. Regret was expressed that the Afghan Government had not been notified of the pilot project prior to its implementation but was only informed of it later on. When the pilot project started, a special Co-ordination Commission for Repatriates was established and the decision adopted to accept returning refugees in guest houses and receiving camps set up for that purpose. All military authorities were requested to ensure the security of the returnees and their property and to obtain accurate maps of roads taken by returnees in order to halt military operations. In addition to accommodation, the Afghan Government decided to assist the refugees by giving each family six agricultural tools as well as a supply of edible oil, sugar, tea and flour. Out of the expected 30,000 or 40,000 families, only about 7,000 have returned since the launching of the pilot project. The majority of repatriates returned to areas not under the control of the Government. It is estimated that an average of 150 to 200 persons return daily from the Islamic Republic of Iran. In this regard, a similar pilot project would also be helpful and a discussion with the Iranian authorities would be required.

30. The Minister of Repatriates' Affairs stated that, since the launching of the national reconciliation policy in his country, 277,110 persons have returned to Afghanistan. The Afghan Government affirms that the property of returnees, which was in State custody, is restituted with the exception of agricultural land. The main problem is the transportation of refugees. An airlift using civilian aircraft

has been organized by UNHCR in conjunction with the Government, linking Herat to Mazar-i-Sharif and Kabul. The Special Rapporteur was able to observe an airlift operation in Herat and had the possibility to interview refugees returning from the Islamic Republic of Iran. One person said he was returning because the foreign army had now left his country.

31. The Afghan Government has established four receiving points, 29 peace guest houses (8 of which are equipped with clinics), 12 receiving camps and one camping guest house. The setting up of two additional peace guest houses is envisaged. Arrangements were made for 1,100 vehicles in the event of the repatriation of thousands of refugees.

32. The Afghan Government has reserved two billion afghanis as an extraordinary allocation to the budget of the Ministry of Repatriates' Affairs for repatriation purposes. In comparison with budgetary allocations to other ministries, this sum is considerably above average.

33. The number of returnees still does not exceed the actual number of refugees outside Afghanistan. This raised the question as to why people do not return in greater numbers. The answers remain the same as before: the uncertain security situation in the provinces, the destruction of the greater part of the country's infrastructures, the existence of unexploded ordnance and mines, the shelling and rocket attacks in various areas, the absence of an Islamic government and the harassment to which returning refugees may be subjected.

34. The Special Rapporteur was able to interview the heads of two families that had wanted to return to their villages in Helmand and Kandahar province but had been stopped by groups of armed persons. They had been robbed, their property had been burned and one son from each family had been forced to join the ranks of the opposition forces. They had been told that they would only be freed against the payment of PRs 20,000. The sister of one of the family heads had been killed. Even in circles favourable to the political views of the so-called Afghan Interim Government, it is said that there have been hundreds of incidents of this kind.

35. The above-mentioned pilot project was announced by a joint information notice issued by the United Nations High Commissioner for Refugees and the Government of Pakistan (see annex I). However, counter-proclamations issued by a group of Islamic Mujahidin commanders (see annex II) were disseminated among the refugees urging them not to return. It is understandable that proclamations of this type and the harassment to which returnees are subjected influence them to decide not to return.

C. Civil and political rights in government-controlled areas

36. The general state of emergency, declared on 19 February 1989 immediately after the withdrawal of Soviet troops from Afghanistan, was lifted on 28 May 1990, when a Loya Jirgah was convened. The Secretary-General of the United Nations was duly informed, in accordance with article 4, paragraph 3, of the International Covenant on Civil and Political Rights. The termination of this state of emergency has not

had a particular incidence on the situation of human rights, apart from the fact that massive arrests took place on two occasions in conjunction with two attempted uprisings, in December 1989 and March 1990.

37. The Constitution of the Republic of Afghanistan of December 1987 was amended in June 1990, after the lifting of the state of emergency. Amendments to the Constitution, which do not alter the structure of the provisions concerning human rights, have been approved by the Loya Jirgah. In particular, chapter 3 has not been altered, and the human rights provisions still contain many reservation clauses that should be more clearly specified through relevant laws.

38. The text of the new Constitution follows a pattern of political pluralism. All references to the leading party, the People's Democratic Party of Afghanistan (PDPA), have been removed. A new party law has been adopted, allowing for a multi-party system, and several political parties have been created. Among them, the successor of the PDPA, the new "Watan" party, occupies the most prominent place. At this juncture, it should be mentioned that article 6 of the former Constitution, concerning the National Front of the Republic of Afghanistan (a kind of umbrella organization), has been abrogated and the National Front is being replaced by a Peace Front, which appears to be a type of coalition of the existing parties. Critics express the opinion that, in spite of the said changes in the Constitution and a clearer delimitation of State power between legislative, judicial and executive bodies, the political realities remain unchanged. The Watan Party is the ruling party, and in the new Government, which is composed of 17 persons independent of the party, key portfolios such as the Ministry of Foreign Affairs, the Ministry of Defence, the Ministry of the Interior and the Ministry of State Security remain in the hands of party members. The President of the Republic continues to be a leading figure in the party ranks, despite a reduction of competences resulting from the new Constitution. In addition, the radio and television remain under the sole influence of the party.

Personal liberty and security 1/

39. The Special Rapporteur has received allegations that thousands of Afghans have been imprisoned in the Soviet Union. It was also said that clandestine detention camps exist. One of them, the so-called "Battery" camp, was said to be located in an artillery base at Rabat, near Ghardez in Paktika province. Other allegations concern political prisoners in the country and place their numbers at some 90,000. It was also alleged that prisoners from Pol-i-Charkhi Central Prison have been transferred to the Military Academy located between Kabul and Pol-i-Charkhi during visits to the prison by representatives of international organizations. However, the Special Rapporteur was unable to obtain any confirmation of these allegations.

40. In order to calculate the real number of prisoners it is necessary to make a distinction between convicted prisoners and others. Convicted prisoners are detained under the authority of the Minister of the Interior. ICRC has visited this category of prisoners in Pol-i-Charkhi and other provincial prisons.

41. The following figures, provided by the Ministry of the Interior, should be taken into account:

Town	Criminal	Political	Total
Kabul	827	1 963	2 790
Helmand	33	23	56
Balkh	235	197	432
Nangarhar	130	72	202
Badgis	4	2	6
Djozdjan	96	50	146
Farah	16	66	82
Samanghan	12	-	12
Baghlan	30	-	30
Konzar	51	50	101
Badaghshan	6	12	18
Khost	9	4	13
Paktia	12	2	14
Parwan	9	12	21
Herat	59	101	160
Faryab	27	20	47
Kandahar	-	1	1
Nimruz	8	7	15
Ghourat	1	-	1

42. These figures may be compared with indications about the prison population contained in the Special Rapporteur's previous reports to the General Assembly in 1989 (A/44/669) and to the Commission on Human Rights in 1990 (E/CN.4/1990/25), as follows:

Date of report	Total	Political
October 1989	3 907	2 584
January 1990	4 302	2 789
October 1990	4 147	2 582

43. The number of detainees under the authority of the Ministry of the Interior amounts to a total of 4,147, of whom 2,582 are "political" and 1,565 common law prisoners. Most of the prisoners have long prison terms of more than 10 years, although 500 are to be released soon.

44. At the time of the Special Rapporteur's visit to Pol-i-Charkhi, on 24 September 1990, he was informed that the total number of prisoners amounted to 2,686, including 29 women and 35 foreigners (24 Pakistanis, 7 Iranians, 2 Iraqis, one Egyptian, one Jordanian, one Malay and one Arab of unspecified nationality). The Special Rapporteur was also informed that 104 prisoners had been released on 23 September 1990. There were two foreign prisoners, Iranians, among them, bringing the total number of Iranians released since his last visit to six.

45. The Special Rapporteur was informed that, since the introduction in 1987 of the policy of national reconciliation, 13,514 prisoners had been released through 20 general amnesty decrees. In addition, 366 individual amnesty decrees had been

pronounced. It was reported that 67 prisoners had been released in June 1990, 54 in July, 63 in August and 24 in September. The last amnesty took place on 23 September 1990. The number of prisoners is not stable. Since 1987, the average increase in the prison population has been about 2,000 per year. The number of incoming prisoners is less than the number of those who are released.

46. Conditions of detention in blocks 3, 4 and 5 of Pol-i-Charkhi prison seem to have improved. The cells are less crowded, literacy courses and vocational training have been introduced and workshops created. Family visits are more frequent than before. As regards the policy of national reconciliation, a "reconciliation scheme" is said to have been introduced in prisons. Under this scheme, eminent jurists explain reconciliation to the prisoners and, once the prison authorities judge them to have accepted the reconciliation policy, their cases are recommended to courts for revision with a view to reducing their sentence or pronouncing an amnesty.

47. When the Special Rapporteur visited the cells of convicted foreign prisoners, however, they complained about their conditions of detention in the presence of the prison authorities. Apart from individual cases, which included a hunger strike situation, general problems were raised such as poor food, lack of medical care, the fact that political and common law prisoners are detained together, that drug users are being held together with non-users or that mentally abnormal persons are detained together with mentally sound prisoners. In the opinion of the Special Rapporteur, these conditions are contrary to paragraphs 67 and 82 of the Standard Minimum Rules for the Treatment of Prisoners (Economic and Social Council resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXIII) of 13 May 1977), and that arrangements should be made for mentally abnormal prisoners to be placed under the special supervision of a medical officer.

48. In addition to convicted prisoners, there are prisoners awaiting trial after the completion of interrogation, prisoners awaiting sentencing, prisoners awaiting the completion of administrative procedures after verdict and prisoners under interrogation. All these categories of prisoners fall under the authority of the Minister of State Security. The number of such prisoners detained in blocks 1 and 2 of Pol-i-Charkhi was given as 574, compared with 364 in September 1989. These include 26 persons under interrogation, 319 awaiting trial or sentencing and 229 convicted prisoners who were in blocks 1 or 2 for an "administrative period", either pending a procedure before the court of appeal or final instance or waiting for formalities to be completed. A number of prisoners were said to have remained in these blocks at their own request. It has been said that they have the same rights and privileges as other prisoners but only persons awaiting trial may not receive family visits. The Special Rapporteur was informed that no women or foreigners were among these prisoners.

49. The Minister of State Security indicated that the total number of persons under interrogation was 1,247, of whom 726 were detained in Kabul and 521 in the provinces. These include persons suspected of having participated in the attempted uprising in March 1990. The investigation of these persons has almost been completed. The Special Rapporteur was informed that relevant proceedings would be held in civilian courts.

50. The situation of unconvicted prisoners is largely uncertain. Paragraph 84 of the above-mentioned Minimum Rules, stipulating that "unconvicted prisoners are presumed to be innocent and shall be treated as such", should be borne in mind. To date, ICRC has not had an opportunity to study the situation of this category of prisoners. Although the Minister of State Security has given an agreement of principle for such visits, so far these visits could not be carried out and negotiations are still under way.

51. The Special Rapporteur was informed about the amendments to article 41, paragraph 5, of the Law of Detention and Interrogation. This law has brought some improvements towards achieving greater conformity with the relevant provisions of article 9 of the International Covenant on Civil and Political Rights. However, the fact that arrested persons may be held in police custody for more than three days raises doubts as to whether this practice can be considered as conforming with article 9, paragraph 3, even when such a prolonged detention is covered by a court decision.

52. In connection with the problem of torture and ill-treatment of prisoners, information was received that deprivation of sleep is a constant practice during interrogation. It was further reported that Brigadier Abdul Sami Azizi, mentioned in January 1990 as one of the officers arrested in the course of the December coup attempt, had been tortured to death in prison.

53. It has been stated that state security organs are always vigilant about the activities of persons allegedly involved in political activities, which are readily interpreted as being directed against state security. Amnesty International reports arrests carried out by the security police (WAD) of the founding members of the newly created National Unity Party, including Prof. Mohamed Mohsen Formaly (who has been released), Dr. Abdul Jalil and Mr. Mohamad Hakim. The Special Rapporteur was unable to see Dr. Jalil and Mr. Hakim.

54. The Ministry of State Security informed the Special Rapporteur that violations of the law had been committed by state security organs on seven occasions. A number of persons were found guilty, while "administrative excuses" were given in other cases. The Government has indicated that it will not allow acts against the rights of citizens to be committed.

The right to life

55. In all human rights texts, the right to life is paramount among other human rights and is closely linked to peace in a given country. Armed conflict in a country affects the right to life. In Afghanistan, it is not possible to determine the exact number of deaths among soldiers, opposition groups and civilians caused by the prevailing situation. It is only possible to reflect the figures provided by the Government concerning the number of civilians killed and wounded by terrorist acts during the last 10 months: 4,771 civilians were killed and 11,756 wounded.

56. Death sentences are still being pronounced but the respective trials follow a more regulated procedure and appear to be less arbitrary than before. The Special Rapporteur was also informed that capital punishment is applied in cases of terrorist acts or mass killings. From the legal standpoint, death sentences may be expected in trials against persons who participated in the attempted coup against the Government in March 1990.

57. The recent amendments to the Constitution have introduced Islamic law (the Shariah) as one of the two legal bases in Afghanistan. According to the Shariah, a person sentenced to death on charges of homicide may only be pardoned if the family of the victim agrees that the death sentence not be carried out. Thus, 50 persons sentenced to a death penalty have been pardoned and 10 death sentences were carried out. After the adoption of the new Constitution, the President of the Republic created a legal commission with a consultative mandate, specifically covering capital punishment. It is expected that this commission will deal with the cases of persons suspected of participating in the March uprising, with a view to reducing the severity of their sentences.

The right to education

58. The Special Rapporteur met once again with the Minister of Higher and Vocational Education, whose basic mandate concerns the universities and vocational schools of the country. The figures the Special Rapporteur presented in his last report to the General Assembly (A/44/669, paras. 58 et seq.) have in general been confirmed. The number of students of both sexes in higher educational institutions now totals 13,500 and teachers number 1,000. There are 12,000 students in vocational schools and 1,200 instructors. The number of professors who have left the country in 1990 because of rocket attacks on universities and the situation of general insecurity has increased by 20. The Universities of Herat and Mazar-i-Sharif have not been heavily damaged, but the University of Nangarhar was almost completely destroyed by some 2,000 rockets. Kabul University was closed from April to September 1990 as a result of heavy rocket attacks by the opposition forces.

59. As mentioned in paragraph 68 of the previous report to the General Assembly, the autonomy of the universities appears to have been reinstituted. The Minister of Higher and Vocational Education, himself a professor, stated that all academic positions in the university administration were now elective posts. The Special Rapporteur was informed that elections for the positions of deans, rectors and heads of departments at the University of Kabul had taken place in November 1989 without interference from the Government or party. It appears that the atmosphere has improved and the encouraging results of university elections indicate that the politicization of university life has been halted.

60. Financial resources available for universities are scarce, rendering the maintenance of academic standards difficult. Apart from an extensive programme by the Office of the Co-ordinator for United Nations Humanitarian and Economic Assistance Programmes Relating to Afghanistan, which focuses mainly on repatriates, the United Nations has no specific programme of assistance for higher education. The existing means are insufficient to repair damage and create new grounds for a full university life.

61. The Special Rapporteur was informed that the United Nations Educational, Scientific and Cultural Organization (UNESCO), which resumed its activities in the country in March 1990, could provide assistance programmes for education and training needs as in the past. Support should be given to educational institutions for repair and construction and UNESCO could also help to obtain books, academic journals, laboratory equipment and other material.

62. In comparison with his earlier reports, the Special Rapporteur is pleased to note that the right to enjoy culture, as envisaged in the UNESCO Declaration of the Principle of International Cultural Co-operation (proclaimed on 4 November 1966) is not neglected. In this connection, assistance to the Kabul Museum and the National Archives for the assessment of damage to national monuments and the compilation of an architectural inventory will be given through the implementation of the UNESCO programme of assistance to Afghanistan.

Right to freedom of religion

63. The Special Rapporteur once again discussed the problem of the right to freedom of religion with representatives of the Supreme Council of Religious Scholars of Afghanistan. He was informed that no religious leaders were presently under arrest. During the past year, six mosques in Kabul have been partially or completely destroyed by rocket attacks. There is an annual programme for repairs and reconstruction, which is implemented by the Ministry of Islamic Affairs. Half of the costs are borne by the community concerned. Representatives of the ulema declared that there had been no religious oppression since the Soviet troops left the country. It has been said that 7,000 to 10,000 mullahs have registered as members of the organization, which was founded in 1980. It is estimated that 500 to 1,000 mullahs may still be outside the country. Among those who have returned, about 1,000 have become members. The organization envisages co-operating with the Peace Front.

64. The Special Rapporteur asked the religious leaders representing the Supreme Council of Religious Scholars of Afghanistan in Kabul for their comments on the text of the counter-proclamation from Islamic Mujahidin commanders (see annex II), urging refugees not to return. Their answer was that they totally rejected it.

Social and economic rights

65. The enjoyment of economic rights must be viewed against the background of the war situation in the country. Roads and villages have been destroyed, many irrigation systems do not work, and normal agricultural activities have not been resumed. Prices have undergone a rapid inflation, while salaries have not increased commensurably. The population is able to survive to a considerable extent owing to the help of the United Nations, such as that provided by the Office of the United Nations Co-ordinator for Humanitarian and Economic Assistance Programmes Relating to Afghanistan and by non-governmental organizations working inside the country. The Government is able to assist the population in the cities. Malnutrition is common among children and schools have on occasion been forced to close on account of this. In rural areas, which also lack basic health centres, cases of starvation have been registered (for instance, in Faryab

province). Outbreaks of locust and sunn pest reported by the Special Rapporteur in paragraph 72 of his last report to the General Assembly (A/44/669) are still occurring. The UNHCR reports on the provinces provide an eloquent illustration of the economic situation prevailing in various parts of Afghanistan.

66. The Special Rapporteur was informed that, since the withdrawal of Soviet troops, a special Commission for Combating Drug Abuse in Afghanistan has been set up. The authorities expressed readiness to conclude bilateral agreements in this domain. Since the creation of this Commission, 1.7 million kilograms of hashish, 114,000 kilograms of heroin and 11,500 kilograms of opium have been seized and destroyed, including 800 kilograms of hashish during the last six months alone. There are reported to be 3,447 registered drug addicts in the country, of whom 1,200 are under treatment. One hundred and eighty drug smugglers have been apprehended.

67. A new feature in the amended Constitution of Afghanistan should be brought to the attention of the General Assembly. Article 19 "protects all forms of legal property", while article 20 allows for private investment in forests, pastures, energy resources, mines and communications. It is, however, premature to judge the results of the introduction of these provisions in the Constitution inasmuch as they affect activity in the private sector. The Government is prepared to restitute the property of repatriates. According to Decree 789 on the restitution of property, all persons who left the country prior to June 1990 or whose property inside or outside the country came into State custody, will have the property returned to them or their legal representatives or legal heirs.

68. The existence of displaced persons has also created economic problems in the main cities. In Mazar-i-Sharif, the Special Rapporteur was informed that the town originally had a population of 140,000, but that now the numbers had swelled to over 350,000. Since the launching of the policy of national reconciliation, 5,000 persons have returned to the city. Infrastructural problems are particularly acute. The city administration provides plots of land for housing construction and so far 3,000 plots have been distributed. However, 40,000 requests for land have been registered. Schools have to work in four shifts, from 7 a.m. to 7 p.m. International organizations are helping to solve these problems.

D. The situation of human rights in areas not under government control

69. For the first time since the beginning of his mandate, the Special Rapporteur was able to visit areas of Afghanistan that are not under government control. Entering Kunar province via the Nawa pass, he visited the district of Asadabad, where he had meetings with a Shura of the so-called Afghan Interim Government, a Shura composed of members of the Hezb-i-Islami, the party of Commander Gulbuddin Hekmatyar and members of the Salafi Shura led by Mulavi Jamil Rehman.

70. In Kandahar province, which he entered via Chaman and Spin Boldak, the Special Rapporteur visited the district of Arghestan, where he met a local Shura headed by Mulavi Habibullah and a Jirgah headed by Haji Abdul Razziq, who is responsible for Hajj affairs within the so-called Afghan Interim Government.

71. The visit to these two provinces could not provide a complete insight into the situation in areas not controlled by the Government, as it seems to differ from province to province and from district to district. In some areas it is alleged that links with the Afghan Government exist. However, all leaders with whom the Special Rapporteur spoke in Kunar and Kandahar unequivocally stated that no such contacts were maintained and that no protocols or written agreements whatsoever had been concluded with the Government.

72. A common characteristic of the areas not under government control is the absence of any central administration. The so-called Afghan Interim Government has no administrative infrastructure in the provinces. It acts through field commanders and Shuras, which are composed of commanders and religious leaders who have a knowledge of the Shariah. It should be noted, however, that many areas are largely depopulated or have only a very small population. The Special Rapporteur has the impression that the administration is primarily in the hands of the military factions in the region. Only a few provinces seem to have a normal civilian life.

73. The Special Rapporteur was informed that there are 200, mostly elementary, schools in Kunar. Male and female pupils are separated. There are also 24 clinics and two central hospitals, which were built with foreign assistance.

74. In Kandahar, the Special Rapporteur was informed that there are around 50 schools, with a predominantly religious curriculum. In addition, it was possible to observe that there is no road infrastructure in Kunar or Kandahar provinces.

75. The guarantee of personal liberty in areas not under government control must be seen against the background of the armed conflict. There are prisons governed by different parties and one party even has a prison in its headquarters, but the Special Rapporteur was not able to visit any of them. ICRC has on occasion had access to a limited number of these prisoners.

76. Several areas, in particular those which are not under the control of the Government, are mined. In areas under government control, mines are deployed around military installations and important economic facilities. The problem of minefields in the country is fundamentally linked to the right to life and the right to security. Hospitals are replete with persons who have been injured by mine explosions.

77. In an effort to contribute to the solution of the problem of mines, the Special Rapporteur endeavoured to obtain relevant information. He considered the problem in discussion with personnel from the Office of the Co-ordinator for United Nations Humanitarian and Economic Assistance Programmes Relating to Afghanistan, by visiting United Nations mine clearance operations in the field, and with the Ministry of Defence in Kabul and representatives of the special Commission for De-Mining that has recently been established by the Prime Minister and the Council of Ministers of Afghanistan.

78. According to maps of minefields provided by the Afghan Government and estimates provided by the Commission for De-Mining, about one million mines have been deployed by the Afghan army and 500,000 by Soviet troops. About one million mines are thought to have been deployed by opposition forces. At the Commission for De-Mining, the Special Rapporteur was shown the minefield maps that are in the hands of the Afghan Government. These maps contain detailed indications about the deployment of mines by the Afghan Army and Soviet troops. There are no maps of the minefields laid by the opposition forces. The Government once again expressed its readiness to co-operate with the United Nations in mine detection and clearance. It expressed doubts, however, regarding the manner in which trainees who have completed mine clearance courses apply the knowledge they have acquired. The Commission for De-Mining envisages the opening of a mine detection school and the training of 38 dogs, as well as the launching of a mine awareness education and advertising campaign for the general public.

79. It should be noted that the Afghan Army and the Soviet troops deployed mostly anti-personnel mines, while the opposition forces have laid anti-tank and other anti-vehicle mines. The task of mine clearance is rendered difficult by the fact that opposition forces reportedly did not draw up maps of their minefields on a regular basis. The task of mine detection is further compounded by meteorological phenomena and animals, which displace mines and thus make their detection more difficult even when maps exist. An additional problem is unexploded ordnance, which is said to represent an even greater danger than mines.

80. The Special Rapporteur has been fully briefed on mine clearance operations by the Office of the Co-ordinator for United Nations Humanitarian and Economic Assistance Programmes Relating to Afghanistan. A mine awareness and disposal programme has been created, sponsored by the United Nations, and is in progress. The initial survey is carried out by the Mine Clearance and Planning Agency, which has reconnaissance and survey teams in the provinces of Ghazni, Paktika and Kandahar. An additional team is to start operating in Paktia. The north of the country is serviced by the Afghan Technical Consultants, which has 17 mine clearance teams operating in the provinces of Bamiyan, Ghazni, Kunar and Paktika. Regional mine clearance operations are being carried out in the following districts of Kandahar province: Maruf, Argandhab, Arghestan and Zabul. The South-West Afghanistan Agency for De-Mining planned to have 10 mine clearance teams available for work inside Afghanistan as at 16 October 1990. Its team of 54 persons operating in the Sheihan area of Arghestan district has searched an area of 525,209 square metres where, since 9 July 1990, they have found large numbers of PMD6, POMZ-2, SB33 and MUV 2 devices. There is also a Mine Awareness Programme under which about 270,000 persons have received instruction in mine awareness. Basic 6-hour mine clearance courses are given to refugees, including children, and illustrations of various types of mines are distributed. So far, 9,302 Afghans have now graduated from this programme.

81. In Pakistan, training in mine clearance is being carried out by United Nations experts from Australia, New Zealand, the United States of America and Norway in the Risalpur De-Mining Training Camp near Peshawar. Dogs are also used in mine detection. According to information received at the Risalpur camp headquarters, in Kunar province, a total of 312,472 square metres of land has been cleared of

204 explosive devices and 21.2 kilometres of road and 6.8 kilometres of canal have also been cleared, yielding 24 anti-tank and 178 anti-personnel devices, and 155 unexploded ordnance. In Paktika province, 43,320 square metres of land and 23.23 kilometres of road have been cleared, yielding four anti-tank and 31 anti-personnel devices as well as 21 unexploded ordnance. In Bamiyan province, 12,066 square metres have been cleared of 15 anti-personnel devices and 72 unexploded ordnance. In Ghazni province, 16,260 square metres have been cleared, producing 292 anti-personnel devices and 100 unexploded ordnance.

82. The total cleared for all provinces is: roads 44.43 kilometres, canals 6.8 kilometres, land 383,818 square metres. The total devices uncovered is: anti-tank devices 28, anti-personnel devices 516 and unexploded ordnance 348.

Human rights in the light of the conflict

83. An armed conflict, as defined in the Geneva Conventions, is still going on in Afghanistan. It is characterized by a confrontation between the Afghan army and armed opposition groups, as well as by guerrilla-style warfare and terrorist attacks on the part of the opposition forces using sophisticated weapons coming from abroad. Terrorist attacks have also been perpetrated against United Nations personnel. An additional dimension to the conflict is furnished by clashes between armed groups from the various opposition parties and, more recently, between the Hazara and Pashtun ethnic groups.

84. Allegations have repeatedly been made that foreigners have joined the ranks of the armed forces of the opposition movements in Kunar province. It is reported that their behaviour does not conform to the customs prevailing in the region and that they have committed atrocities, particularly with regard to women. Representatives of the so-called Afghan Interim Government dissociate themselves from such acts.

85. This armed conflict concerns both humanitarian law and human rights. It is not the task of the Special Rapporteur to speculate on the strategic, tactical or political elements of the conflict, but its very nature is affecting human rights in Afghanistan, in particular the right to life (International Covenant on Civil and Political Rights, art. 9), the right to security of the person (ibid., art. 14), and the right to property (Universal Declaration of Human Rights, art. 17; Fourth Geneva Convention, art. 114).

86. In 1989 and 1990, the armed conflict has taken place mainly around cities and villages, strategic areas such as highways linking provincial capitals to one another and to Kabul, airports and airfields, as well as the strongholds of armed opposition forces. The following areas have repeatedly been mentioned as having been subjected to artillery shelling, rocket attacks, bombing and mopping-up operations: Samarkhad, the Jalalabad and Kabul areas, Kunduz, Paghman, Khost, Qualat (Zabul province), Kandahar, Farah, Ghazni and Badgis. The Special Rapporteur was informed that the prime objective of the government forces was the defence of supply routes. It has been alleged that government forces answer acts of warfare on the part of the opposition with indiscriminate acts of retaliation, which also affect the civilian population. On the other hand, it is the civilian

population in the Kabul area that is the most frequent victim of the attacks of opposition forces.

87. The acts that the Special Rapporteur considers as acts of terrorism, as defined in the First Additional Protocol to the Geneva Conventions of 12 August 1949 (see A/43/742, paras. 118-121, and A/44/669, para. 88), have decreased in number but increased in intensity. Terrorist attacks are of various types: the killing of civilians, the planting of explosives and the firing of rockets in civilian areas. The Government stated that, during the past 7 months, there have been 800,660 rocket attacks and artillery shellings throughout the country, including 2,086 rocket attacks on Kabul. These have caused 4,771 civilian deaths and 11,756 wounded, and destroyed 2,511 houses, 43 mosques and 3 Hindu temples. In addition, 213 public buildings and 125 shops have been damaged or destroyed. The Ministry of State Security claimed that these figures indicated a sharp decline in the number of attacks. In several cases, explosive devices were detected before they exploded. The same types of rockets have been employed as those mentioned in previous reports of the Special Rapporteur. This year, the Special Rapporteur has once again been an eyewitness to rocket attacks on Kabul.

88. Allegations continue to be made concerning threats and intimidation in and around the Peshawar area. The most serious recent incident was the death in July 1990 of a Pakistani journalist, Mansoor Khan, following an acid attack alleged to have been carried out by fundamentalists "unhappy with his reporting of the Afghan war". Other incidents were the kidnapping of a Canadian national and a bomb explosion at Dean's Hotel in Peshawar.

89. The number of war-wounded in the hospitals varies. Those admitted to the ICRC Hospital in Kabul are steadily on the increase. The statistics are as follows.

90. The number of admissions to the ICRC Surgical Hospital for Afghan War-Wounded in Kabul from January to August 1990 was 2,672. There were 219 patients on 26 September 1990. The number of patients had at one point risen to 250, filling the hospital to capacity. About 70 per cent of the wounds had been caused by shelling and between 10 per cent and 15 per cent by mine blasts.

91. The ICRC Surgical Hospital for Afghan War-Wounded in Quetta had 130 admissions in February, an average of 140 to 160 per month from March to June, 176 in July, 165 in August and 112 during the first two weeks of September 1990. There were 120 patients on 19 September 1990. The Special Rapporteur was informed that there had been up to 500 admissions per month at the time of the battle of Jalalabad in 1989.

92. The ICRC Hospital for Afghan War-Wounded in Peshawar had registered a certain decline in the number of its patients to an average of 110 per month. However, there had been 182 admissions in July 1990. During the months of the battle of Jalalabad, the average number of admissions had been between 220 to 230 per month.

93. From March to September 1990, the "400-bed" Military Medical Academy Hospital in Kabul registered 2,374 admissions of war-wounded. The average number of bed-ridden patients has declined from 1,000 to 800. The Special Rapporteur was informed that the Ministry of State Security and the Ministry of the Interior have their own medical centres.

94. The Special Rapporteur learned that ICRC is in a position to transfer war-wounded from areas under the control of the opposition to its hospital in Kabul and return them to their areas after treatment.

95. In the Indira Gandhi Institute for Child Health in Kabul there has been a decrease in the number of war-wounded children admitted. In 1988/89, 1,073 war-wounded children were admitted, while in 1989/90 the numbers went down to about 400.

96. The Special Rapporteur was informed of the activities of the Afghan Red Crescent Society. Regret was expressed at the absence of co-operation with the Pakistan Red Crescent Society. The Afghan Red Crescent Society stated that, during the period under review, it had evacuated 2,142 wounded civilians from the Kabul district to hospitals in its ambulances and transported the bodies of 257 who had lost their lives.

97. The situation of prisoners remains unchanged. The Afghan Government does not recognize captured members of the opposition forces as prisoners of war under the Geneva Conventions. There is no doubt that prisoners are taken and held by the opposition groups, but their fate is unclear. ICRC has had partial access to such prisoners so far. The Afghan Government and the opposition commanders have on occasion exchanged prisoners. One commander told the Special Rapporteur quite frankly that they kill prisoners who are considered to be Communist.

98. The fate of Soviet prisoners held by opposition groups is also unclear. So far, no agreement has been reached between opposition groups and the Soviet Union concerning an exchange of names of prisoners. There have been no discussions between the Soviet Union and Pakistan concerning the problem of prisoners. However, a delegation of mothers of Soviet prisoners visited Peshawar and was received by the so-called Afghan Interim Government, which reportedly gave them information concerning the whereabouts of their sons.

99. Opposition groups expressed interest in the fate of Afghans who have been captured by Soviet troops since 1980 and allegedly taken to the Soviet Union but who have never returned.

Self-determination

100. All recent reports on Afghanistan submitted to the General Assembly and the Commission on Human Rights have reaffirmed the inalienable right of all peoples to determine their own form of government and to choose their own economic, political and social system free of outside intervention, subversive coercion or constraint of any kind whatsoever. These bodies have also called for intra-Afghan dialogue and the establishment of a broad-based Government.

101. The right to self-determination is recognized by all parties involved in the Afghan conflict. However, the satisfactory implementation of this right is far from being realized. There are still about five million Afghan refugees abroad and no real dialogue between the parties involved has taken place. Appeals from the Government were addressed to the field commanders for the establishment of such a

dialogue. The Government states that over 889 armed opposition groups, consisting of 81,000 men, have ceased hostilities and that protocols on the cessation of armed activities have been signed with 479 armed and unarmed groups, covering 69,000 men. 2/ The Special Rapporteur interviewed a number of commanders, who stated that they had never heard of such protocols. The Minister of Defence stated that over the past 20 months, 120,000 armed men had halted their activities and that 70 per cent of field commanders did not fight any more. However, Government appeals for dialogue are ignored by the leaders of the political parties based in Peshawar who, for reasons of principle, reject any contact with the Afghan Government.

102. The traditional Loya Jirgah could be an element and a means for self-determination. However, this Loya Jirgah is considered by the opposition as a Party Jirgah, despite the fact that the new Constitution contains provisions concerning the election of members of the Loya Jirgah by the people through universal, equal, free, secret and direct ballot (art. 66). Such elections have not taken place.

103. The issue of general elections has been raised in relation to the right to self-determination. In this regard, the recognized democratic principles of free elections are enshrined in article 79 of the new Constitution. However, these principles cannot be implemented as long as refugees cannot participate in parliamentary elections. In addition, the tribal diversities and the difference of views among the various political movements concerning a possible election procedure show that general elections cannot be held before a political solution to the conflict is found. Moreover, it is widely recognized that any future elections have to be preceded by transitory arrangements. On occasion the possible role of the former King Zaher Shah in the reconciliation process has been mentioned.

104. The Lawyers Association of the Republic of Afghanistan has performed an act of self-reliance by publishing translations of basic human rights instruments such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights and promulgating them. The Law and Life quarterly journal has published the draft of an Asian charter of human rights. The Special Rapporteur was informed that there had been no interference from the Government with these initiatives.

105. The peace plan of the President of the Republic and of the National Salvation Front may be considered attempts at achieving self-reliance. As long as there are 140 "governments" in the area, self-determination should be considered a process the dynamics of which must be determined by all the major parties to the conflict. This process should come from within the country and could be co-ordinated by the United Nations.

III. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

106. After the withdrawal of Soviet troops from Afghanistan in conformity with the Geneva Agreements and with the resolutions of the United Nations bodies, the human rights situation in the country is still characterized by an armed conflict between the Government, on the one hand, and opposition forces acting from inside and outside the country, on the other. Arms supplies have not ceased. Unrest is also caused by armed clashes between different opposition groups and even clashes between tribes.

107. Despite repeated attempts on the part of United Nations representatives and the Afghan Government to find a political solution to the conflict, it appears that important parties to the conflict are seeking a military solution for numerous reasons. The opposition groups are only united in their rejection of the present Afghan Government. As long as there are diverging views on issues such as the honour of families, clans, tribes and the country, it will be difficult to convince all the parties involved of the necessity for an unconditional political dialogue. As long as the conflict lasts, the right to life and to security of persons will be in jeopardy.

108. The Government is now fully co-operating with international organizations, in particular the United Nations, in trying to improve the lot of the people suffering from the economic, social and cultural consequences of the conflict. This is an important step in the process of reconciliation.

109. The refugee situation has not changed significantly. There are still about 5 million Afghans living abroad. A pilot project for repatriation was launched by the United Nations High Commissioner for Refugees in co-operation with the Government of Pakistan in July 1990. This project shows that a systematic return of refugees has begun. The Afghan Government has made technical and financial preparations to receive the returnees. This process is confronted by factual and political difficulties arising from the deplorable economic situation in areas to which the refugees are returning. The political difficulties stem from the fact that certain opposition parties demand that refugees not return as long as the present Government is in power. In addition, the conditions most refugees may encounter upon their return have not improved. This means that the provisions of the Geneva Agreements concerning the free return of refugees are not being implemented. A massive return cannot be expected before the rehabilitation of the areas in question. However, the number of refugees is not on the rise.

110. As long as refugees cannot return safely and freely to their homes, the exercise of the right to self-determination will not be fully realized. The right to free election of a universal nature can also not be guaranteed as long as every Afghan citizen is effectively not able to vote.

111. The mine clearance process is off to a slow start. The Government has expressed full readiness to co-operate with the United Nations in this regard, but such co-operation has not yet materialized.

112. The new Constitution adopted by a Loya Jirgah has introduced a multi-party system, which has resulted in a much broader-based Government than before. Two thirds of its members do not belong to the ruling party. However, key ministerial posts are still in the hands of party members and the governmental system is dominated by the Watan Party, the former PDPA.

113. With regard to the right of personal liberty, there is a certain improvement as far as the length of police custody and its control by the judiciary are concerned.

114. The condition of convicted prisoners has generally improved, but the Special Rapporteur has doubts as to whether this improvement has also affected foreign prisoners. ICRC has access to this category of prisoners.

115. The condition of unsentenced prisoners, that is, those who are under interrogation or awaiting trial, is somewhat unclear. ICRC has not as yet had access to this category of prisoners. Since they number many hundreds, owing to the attempted coup of March 1990, the Special Rapporteur is concerned about the fate of these prisoners. Apart from one reported case of torture and allegations of sleep deprivation at the time of interrogation, reports of torture and other types of ill-treatment appear nearly to have stopped.

116. The death penalty is still being applied. As the new Constitution has introduced the Shariah into the legal system, it should be noted that a person sentenced to death can, according to the Shariah, be pardoned if the family of the victim gives its consent. There have been 50 cases of pardon and 10 cases in which the death sentence has been carried out. Capital punishment now follows a more regulated procedure and appears to be less arbitrary than before.

117. Terrorist warfare, in particular the continuous rocket attacks, has caused more than 4,700 deaths among the civilian population in 1989 and 1990, of which 2,100 in Kabul alone. The bombings, rocket attacks and shellings carried out by the Government also cause destruction and loss of life among the civilian population. However, the number of war-wounded in hospitals in Pakistan and in Kabul has declined, with the exception of those run by ICRC.

118. The last Loya Jirgah proclaimed an additional general amnesty decree, according to which prisoners sentenced to up to five years' imprisonment are to be released after serving one year; those sentenced to up to 10 years are to be released after serving a quarter of their sentence and prisoners sentenced to over 10 years are to be released after serving one third of their sentence. Prisoners with incurable diseases and those over 60 years of age are also to be released. Pardon is also granted in individual cases. The fate of prisoners in the hands of the opposition forces is unknown to the Special Rapporteur. It is believed that a number of Afghan Mujahidin are still imprisoned in the Soviet Union.

119. The level of enjoyment of other civil, political, economic, social and cultural rights in Afghanistan depends on the military and political situation prevailing in different parts of the country. The situation of human rights in areas not under the control of the Government is uncertain; the economic situation is deplorable and there is an absence of effective administration.

120. The Special Rapporteur believes that the overall situation of human rights in Afghanistan is of a complex nature and far from conforming with standards enshrined in the international instruments. It should therefore be considered against the background of ongoing conflict. Regrettably, both the conflict and the people seem to have become a "forgotten war" and a "forgotten people".

B. Recommendations

121. The United Nations should make every effort to contribute to a political solution of the conflict, which is the only means to ensure respect for human rights throughout the country.

122. The use of weapons against the civilian population must be halted. Any such use must be qualified as terrorism, as defined by humanitarian law.

123. Projects concerning the return of refugees should be pursued and all Governments involved should collaborate on such projects and should be incited to do so.

124. The efforts to bring the system of detention on remand into conformity with international standards should continue. The Standard Minimum Rules for the Treatment of Prisoners should be respected. The abolishing of the death sentence would correspond to a trend within the United Nations human rights policy.

125. The opposition movements should unconditionally open their prisons and detention centres so that prisoners may be visited by international humanitarian organizations such as ICRC.

126. ICRC should have access to prisoners in detention on remand.

127. As long as the armed conflict continues, combatants should be considered and treated in accordance with humanitarian law; this recommendation is also valid for the opposition.

128. Further efforts should be made to safeguard the cultural heritage of Afghanistan through collaboration of the Government with UNESCO. UNESCO should also focus on the rehabilitation of universities.

129. Persons trained in mine clearance should only be employed to that end. This should be made a condition for training. Existing minefield maps should be handed to the Office of the Co-ordinator for United Nations Humanitarian and Economic Assistance Programmes Relating to Afghanistan for consultation and co-operation in mine clearance.

130. The United Nations should be called upon to study all the elements of general elections in the light of the political history of Afghanistan and the traditions and customs of Afghan society, in order to develop models for a system of general elections in today's Afghanistan as a means of reaching a political solution to the conflict.

131. The Government should continue to investigate the whereabouts of prisoners and disappeared persons.

132. As long as the present situation of human rights persists in Afghanistan, a Special Rapporteur should continue to inform the competent United Nations organs about the situation. Once a political solution is reached, the vigilance of the United Nations could come to an end.

Notes

1/ With reference to articles 9, 10, 14 and 15 of the International Covenant on Civil and Political Rights, in conjunction with articles 41 and 42 of the new Constitution.

2/ See "Loya Jirgah 1990", p. 46.

ANNEX I

Information notice for Afghan refugees in Baluchistan

(Issued by the Government of Pakistan in conjunctior with the United Nations High Commissioner for Refugees)

Refugees from Afghanistan have been welcomed in Pakistan and have received assistance and protection for more than 10 years. They will continue to be welcome here until peace is restored in their country.

Some refugees from Afghanistan have already begun to return to their homes. Those refugees who wish to return voluntarily to Afghanistan may do so. They should receive all necessary assistance.

The Government of Pakistan, together with the United Nations High Commissioner for Refugees, the Co-ordinator for United Nations Humanitarian and Economic Assistance Programmes Relating to Afghanistan and the Executive Director of the World Food Programme, have jointly agreed to provide a package of assistance to refugees voluntarily returning home. This will entail surrendering their ration passes.

Within Afghanistan, the United Nations system is following an integrated approach to the rehabilitation and reconstruction of the country. Wherever feasible it is providing material assistance to local communities according to identified needs. The internally displaced persons will be eligible for the same humanitarian and economic aid. Priority will be given to areas where refugees and displaced persons are returning or likely to return. Steps have already been taken to establish a United Nations presence in several provinces, including those of likely return of refugees such as Herat, Kandahar, Kunar and Paktika.

Those refugees who wish to repatriate voluntarily will be given a one-time repatriation grant of 3,300 rupees per family. In addition they will receive 300 kg of wheat (approximately three months' ration) per family.

This project will be implemented initially in four locations in Baluchistan for a period of three months, beginning mid-July 1990. Actual distribution of repatriation assistance will commence on approximately 25 July 1990. After three months the project will be evaluated.

The locations from which passbooks can be encashed and wheat will be issued to departing refugees in Baluchistan are Pishin, Chaman, Dalbandin and Muslimbagh.

Registered refugees who wish to return to Afghanistan and who wish to receive the assistance package should report, after the starting date, to a designated bank branch at a departure point with their ration pass bearing a revalidation sticker. There they will be assisted by UNHCR staff to obtain the repatriation grant. They will then be directed to the nearest Commissioner for Afghan Refugees/WFP food

distribution point where they will be given the 300 kg wheat prior to their departure for Afghanistan.

Departing refugees will be allowed to take all of their household goods and belongings and their allocation of wheat into Afghanistan. Orders to the Government of Pakistan officials at border crossing points are being issued to this effect. Refugees are advised that the following routes into Afghanistan will be monitored by the Government of Pakistan for safe passage:

Loralai - Muslimbagh - Badini
Pishin - Barshore
Quetta - Chaman
Dalbandin - Chotto

Any problems should be reported to the Commissioner for Afghan Refugees or the United Nations High Commissioner for Refugees in Baluchistan.

The Government of Pakistan

ANNEX II

Notice issued by Islamic Mujahidin commanders

(Furnished to the Special Rapporteur by the Regional Commissioner for Afghan Refugees in Quetta)

The communist atheist régime of Afghanistan, as planned, has vacated some border areas of Afghanistan. Through their agents among the refugee ranks, owing to their ugly preaching, this régime further desires that the already oppressed Muslim Afghan refugees be sent to Afghanistan by deceit and kept there in unfavourable circumstances, and to take revenge for their rulers and losses on the refugees. According to the above-quoted Koranic verses and the saying of the Holy Prophet, we the commanders warn these refugees that, till the establishment of our Islamic Government, the refugees under no circumstance are allowed to go back to Afghanistan. They should not spoil the sacrifices of 3 million Afghan martyrs and the 10 long years of struggle of the Mujahidin should not go to waste. Anybody found guilty of the crime will be dealt with severely. We the commanders of the camps and front line agree with the Koranic verses and the saying of the Holy Prophet that whosoever is found encashing the sticker pass books or presenting them to the Afghan authorities, we will confiscate his ration cards, his belongings will be burnt and he will be fined to the tune of 20,000 Pakistani rupees.

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Forty-fifth session
Agenda items 118 and 124

PROGRAMME BUDGET FOR THE BIENNIUM 1990-1991

PATTERN OF CONFERENCES

Programme budget implications of holding a special session of the International Civil Service Commission

Report of the Fifth Committee

Rapporteur: Mr. Shamel NASSER (Egypt)

1. At its 11th meeting, on 17 October 1990, the Fifth Committee, pursuant to rule 153 of the rules of procedure of the General Assembly, considered the statement by the Secretary-General (A/C.5/45/16) on the programme budget implications of holding a special session of the International Civil Service Commission. The recommendations of the Advisory Committee on Administrative and Budgetary Questions were presented orally by its Chairman.

2. Comments made in the course of the Committee's consideration of this item are reflected in the relevant summary record (A/C.5/45/SR.11).

DECISION OF THE FIFTH COMMITTEE

3. Based on the statement of programme budget implications submitted by the Secretary-General (A/C.5/45/16) and on the recommendations of the Advisory Committee on Administrative and Budgetary Questions, the Fifth Committee decided, without a vote, to inform the General Assembly that, should it approve the recommendation contained in paragraph 141 of the report of the Committee on Conferences, 1/ no additional appropriations would be required either under section 28H or 29 of the programme budget for 1990-1991.

1/ Official Records of the General Assembly, Forty-fifth Session, Supplement No. 32 (A/45/32) para. 141.

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DEVELOPMENT AND INTERNATIONAL ECONOMIC CO-OPERATION

UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT

PROTECTION OF GLOBAL CLIMATE FOR PRESENT AND FUTURE GENERATIONS OF MANKIND

UNITED NATIONS DECADE OF INTERNATIONAL LAW

Note verbale dated 23 October 1990 from the Permanent Representative of Italy to the United Nations addressed to the Secretary-General

The Permanent Representative of Italy to the United Nations presents his compliments to the Secretary-General of the United Nations and has the honour to transmit a document containing the conclusions of the Siena Forum on International Law of the Environment, together with an Introductory note.

The Permanent Representative of Italy has the honour to request that the document attached to the present note be circulated as a document of the General Assembly under items 79, 80, 81 and 138.

ANNEX

Documents of the Siena Forum on International Law of the Environment

Introductory note

The Forum on International Law of the Environment was convened by the Italian Government as a follow-up of paragraph 47 of the Economic Declaration of the summit of the seven most industrialized countries held in Paris in July 1989, which "noted with interest the initiative of the Italian Government to host in 1990 a Forum on international law for the environment with scholars, scientific experts and officials, to consider the need for a digest of existing rules and to give in-depth consideration to the legal aspects of environment at the international level".

The Forum was held at Siena, Italy, from 17 to 21 April 1990, with the participation of scholars, diplomats and experts from 30 States and eight international organizations.

To facilitate its work the Forum was provided with an introductory document prepared by a group of distinguished Italian jurists, which availed itself of the advice of an international committee made up of well-known legal experts from all areas of the world.

On 21 April 1990, the Forum adopted by consensus the conclusions which appear in the appendix to the present document.

The Economic Declaration of the seven most industrialized countries summit (Houston, Texas, United States, July 1990) noted "with interest the Conclusions of the Siena Forum on International Law of Environment" and suggested that "these should be considered by the 1992 United Nations Conference on Environment and Development".

APPENDIX

Conclusions of the Siena Forum on International Law of the Environment

I

1. Since the 1972 Stockholm Declaration international environmental law has seen many important developments. Its present situation is characterised by an abundance of conventions and other international instruments. These instruments cover many fields and constitute an impressive network of rights and obligations of states. They should be considered a successful achievement of contemporary international law: they have enhanced international awareness of environmental problems, they have engaged governments in constructive cooperation and have introduced common principles and mechanisms for coping with such problems. International organizations, global and regional, have played and continue to play a major role in the development and implementation of international environmental law. Involvement of public and scientific opinion has also been invaluable.

2. The existing network of obligations in international conventions leaves, however, certain gaps. Certain fields - in particular those related to global concerns such as climate change - are not yet covered. In other fields coverage does not extend to all states or regions. In some cases the conventional rules are incomplete or lag behind the development of scientific knowledge. Important achievements notwithstanding, implementation of conventions, both domestically and internationally, is not always satisfactory.

3. The existence of the above-mentioned gaps can often be explained as the consequence of inadequate knowledge or of political disagreement among states.

4. The "sector by sector" approach, adopted in concluding conventions, often dictated by the need to respond to specific incidents, involves the risk of losing sight of the need for an integrated approach to the prevention of pollution and the continuing deterioration of the environment. The "react and correct" model should be complemented by a "forecast and prevent" approach: this would enhance security in global environmental matters.

/...

5. Recommendations and standards contained in non-binding instruments have a very useful role to play. They may constitute the first step towards the conclusion of conventions and may also facilitate their application. Moreover, such non-binding instruments are easier to adopt than conventions and are immediately applicable by states.

6. Customary law in the field of the protection of the environment is at an early stage of development. Its importance cannot be underestimated for the development of general principles (which no convention addresses so far), for filling the gaps of conventions and for insuring the protection of the commons. Moreover, the law of international responsibility for the violation of the obligations of states is mostly customary, although the development of rules on civil liability and on the jurisdiction of courts in a number of conventions may facilitate reparation of damages reducing in practice the likelihood of recourse to this branch of the law in environmental matters.

7. International legal rules, conventional or otherwise, must be seen in the perspective of different economic situations and of the need for development. While the record of developing countries' participation in environmental protection conventions is a positive one, the consideration of their particular situation and needs can provide them with added incentive and improve their capacity to participate in, and implement these conventions.

II

8. Gaps in the international regulation of the environment can be identified from three points of view: "territorial", substantive and implementational. From a "territorial" point of view, for example, it has been pointed out that the environmental protection of outer space has not been elaborated, beyond general principles in the Outer Space Treaty. The Arctic region is similarly not the subject of much international environmental regulation specific to it. Furthermore effective regional arrangements which exist in certain regions but not in others could either be extended to other regions or adapted to other needs as appropriate.

9. In terms of substance, the following are examples of areas in which international regulation might be introduced or strengthened:

(a) Climate change and protection of atmosphere
(b) Export, use and disposal of dangerous substances and technologies
(c) Fresh water resources, including ground water and watercourses
(d) Protection of living marine resources
(e) Environmental protection of polar areas
(f) Environmental emergencies
(g) Exchange of environmentally sound technologies
(h) Conservation of biological diversity, including the habitat necessary to sustain it
(i) Regulation of biotechnologies
(j) Waste disposal
(k) Implementation of obligations concerning the commons
(l) Protection of the sea from pollution from land based sources and through the atmosphere
(m) Protection and management of land resources

10. From an implementation point of view, in certain cases legal instruments are adequate on paper but are either not properly enforced or have not attracted a large number of parties to address environmental problems of a global nature.

11. Below are listed treaty and other devices that could be used by governments, as appropriate, to address the particular concerns raised by the international protection of the environment:

(a) Integration of science and technology into decision making through e.g.: a formal assessment process; collecting, processing and disseminating data; cooperation in research and monitoring; and exchange of information among parties.

(b) Taking into account the special situation of developing countries through, e.g.: financial and technical assistance to aid in implementing obligations; delayed compliance ("grace periods"); differentiated standards and objectives.

(c) Attracting new parties through, e.g.: the provision of incentives for participating in treaties; control of certain trade with non-parties, where appropriate; and framework conventions to include more states in the process and in research and in monitoring activities even if not in subsequent obligations.

(d) Bridging the gap between signature and entry into force of conventions through, e.g.: declaration of voluntary compliance; provisional application of some or all treaty provisions; and adoption of the subject matter of certain conventions also as recommendations.

(e) Provide for updating treaties quickly, especially through procedures for rapid entry into force of amendments, such as: opt-out (or tacit acceptance) procedures, rather than ratification for technical amendments; not requiring ratification for amendments to provisions on substances already controlled; not requiring too high a number of ratifications for entry into force; and setting target dates for entry into force of amendments to encourage early ratification.

(f) Use of instruments containing commitments of a non-binding nature, including those that accompany legally binding commitments, and those including follow-up machinery such as country reviews.

(g) Recourse to international institutions for developing rules set forth in framework conventions.

12. Moreover, problems relating to non-compliance or lack of effectiveness could be addressed through the following treaty devices:

(a) Addressing the problem of non-compliance through the use of e.g.: reporting requirements, special non-compliance procedures and measures, liability provisions and dispute settlement procedures.

(b) Use of institutions in ways such as: conferring of administrative functions on secretariats (e.g.: collection and dissemination of reported data); providing for a conference of the parties; use of

specialized groups for advise on matters such as science and economics.

13. Important as international efforts may be, environmental protection begins on the local level. The following practices, techniques and institutions have proven successful on the local and national levels and could be adopted to the extent practicable by countries more generally:

(a) Provision by states to the public of information on environmental issues, and in particular, on hazardous activities.

(b) Facilitation of public participation at appropriate stages of the decision-making process, both for nationals and for those in other countries who may be affected.

(c) Access by members of the public to impartial fora to seek redress for actual or threatened injury resulting from action concerning the environment.

(d) Provision of environmental education, including environmental law, with a view to enabling effective participation and fulfillment of individual responsibilities with regard to the environment.

(e) Application by states of the principle of transparency of their governmental activities concerning the environment.

(f) Bearing in mind the interest of future generations in environmental quality in the formulation of policies affecting the environment.

14. The following actions could be taken on the national, regional and international levels, as appropriate:

(a) Wider utilization of environmental strategies and environmental impact assessment on the national and regional levels and globally where appropriate.

(b) Making greater use of expert groups and advisory committees in the formulation and implementation of environmental laws and regulations on the national and international levels and in the prevention of environmental disputes between states.

(c) Providing the opportunity for participation of non-governmental organizations in appropriate ways in the

process of environmental law-making and implementation on the national and international levels.

(d) Undertaking efforts to harmonize national legal regimes relating to environmental protection.

(e) Establishment of informal relations and communications between regional authorities in neighboring countries in coordinating efforts to protect the environment.

(f) Expansion of the use of ombudsmen for environmental matters on the national and regional levels and, where appropriate, globally.

(g) Avoiding duplication of effort, particularly among international organizations, in order to promote efficient utilization of resources.

(h) The use of economic instruments for environmental protection.

(i) Adaptation, where necessary, of the legal regime governing international trade to generally accepted goals for the protection of the environment.

(j) Integration of environmental considerations into the national and international law-making process in all fields.

(k) Further development of the law of international responsibility and civil liability in the field of the environment, particularly with reference to specific treaty regimes.

(l) Application of the "Polluter Pays Principle" for chronic as well as for accidental damage to the environment in order to encourage economically efficient environmental protection and to avoid economic distortions.

III

The following aspects of international cooperation could be considered:

15. Systematic exchange of data and information on the state of the environment and levels of pollution. Assistance to developing countries upon their request and in full respect of their sovereignty for collecting such data and information, in particular, through environmental audit mechanisms. Transmission of data and information to competent international organizations in order to make them available to governments, local authorities and individuals.

16. Provision of prior information on activities likely to have significant adverse transboundary effects on the environment in a timely manner to all states which may be affected by such activities, in order to allow them to evaluate the environmental consequences. Transmission of such information, through appropriate channels, for dissemination among those individuals or entities which may be affected, in particular in border areas.

17. Timely consultations by the states in which such activities are planned to take place with potentially affected states, so as to ensure that the final decision can be taken in light of the best available knowledge of its transboundary effects.

18. Cooperation amongst states and international organizations to prevent environmental accidents and minimize their effects. Improvement of preventive measures and consideration of contingency plans or their establishment by bilateral or multilateral agreements. Provision of adequate insurance or financial guarantees for major hazardous activities.

19. Providing prompt and adequate information on environmental accidents or emergencies to potentially affected states or local entities.

20. Enhancement of duties and mechanisms of mutual assistance between states in case of environmental accidents or emergencies by way of interstate cooperation and through the action of competent international organizations. Granting of such assistance, upon request, to the recipient state on mutually agreed terms.

21. Giving special attention to the extension of controls to prevent the harmful effects of accidental or deliberate release into the environment of genetically manipulated organisms.

22. Preventing differences between national environmental standards being used as a means to create unjustified obstacles to, or distortion of, international free trade. Establishment of contacts

between competent international organizations (including GATT) in order to avoid or minimize such a consequence through appropriate means.

23. Recognition by states of the major role of the public in the development and implementation of international rules protecting the environment, by adopting adequate procedures such as the publication of reports, and, when appropriate, the participation of non-governmental organizations in the discussions of international bodies and the review by independent experts of communications emanating from citizens and their groups. In this respect certain procedures used for the protection of human rights could serve as models in the field of the protection of the environment.

24. The establishment of innovative environmental funding mechanisms or other devices, such as debt-for-nature swaps, with a view to meeting the legitimate concerns of developing countries that their participation in environmental cooperation does not render even more arduous their development efforts.

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REPORT OF THE ECONOMIC AND
SOCIAL COUNCIL
THE SITUATION IN CENTRAL AMERICA:
THREATS TO INTERNATIONAL PEACE AND
SECURITY AND PEACE INITIATIVES

SECURITY COUNCIL
Forty-fifth year

Note verbale dated 19 October 1990 from the Permanent Representative of El Salvador to the United Nations addressed to the Secretary-General

The Permanent Representative of El Salvador to the United Nations presents his compliments to the Secretary-General of the United Nations and has the honour to transmit the communiqué issued on 18 October 1990 by the Government of the Republic of El Salvador concerning the attitude and actions of the Frente Farabundo Martí para la Liberación Nacional (FMLN) during the process of dialogue. That attitude and those actions constitute impediments to the objective of achieving peace in El Salvador as soon as possible.

The Permanent Representative of El Salvador would be grateful if this note and its annex could be circulated as an official document of the General Assembly, under agenda items 12 and 28, and of the Security Council.

ANNEX

Communiqué issued at San Salvador by the Government of El Salvador on 18 October 1990

The Ministry of Foreign Affairs wishes to inform the general public, in El Salvador and abroad, of the Government's position regarding the attitude of FMLN during the process of dialogue:

1. The Government emphatically denounces the FMLN policy of using the threat of a fresh military offensive as a means of applying pressure during the process of dialogue. That has been obvious from repeated statements by FMLN leaders in various media organs.

2. Hard evidence of the willingness of FMLN to carry out the threat of hostilities was provided by the attacks last night (17 October) on the Salvadorian air force base at Ilopango, Soyapango, and on barracks situated on the outskirts of the capital, to the north and to the east. The areas that came under these simultaneous attacks are densely populated. The perpetrators obviously had scant regard for the security and physical safety of the thousands of inhabitants, and caused much tension among them.

3. The Government condemns all such actions and intentions, for it sees them as impediments and serious dangers to the normal conduct of the process of dialogue, which help to create a climate of anguish and uncertainty among the Salvadorian people.

4. The Government considers that the launching of a fresh military offensive by FMLN would constitute a flagrant violation of the human rights of the Salvadorian people, and would fly in the face of the Agreement on Human Rights signed at San José, Costa Rica, on 26 July 1990.

5. The Government of El Salvador reiterates that it is completely willing and prepared to continue using all the means at its disposal to find a political solution to El Salvador's problems, in accordance with the provisions of the document signed in the presence of the Secretary-General of the United Nations at the meeting held at Geneva, Switzerland, on 4 April 1990. In this connection, the Government reiterates that it is willing to attend the next round of negotiations, for it is convinced that dialogue offers the best route towards a civilized settlement of the conflict.

6. The Government urges FMLN to abandon its warlike ways and violent policy, which are not at all conducive to the fundamental objective of the process of dialogue, namely, to reach agreements as soon as possible on the establishment of a firm and lasting peace, the supreme aspiration of the Salvadorian people.

7. The Government appeals to the international community to come out publicly in support of the initiatives by the Secretary-General of the United Nations, Mr. Javier Pérez de Cuéllar, aimed at securing a peaceful and democratic settlement of the internal conflict in El Salvador, which threatens the peace and tranquillity of the entire Central American region. The Government also calls on the international community to reject any act of violence on the part of FMLN.

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Agenda item 30

CO-OPERATION BETWEEN THE UNITED NATIONS AND THE ORGANIZATION OF AFRICAN UNITY

Letter dated 24 October 1990 from the Permanent Representative of Somalia to the United Nations addressed to the Secretary-General

In reference to the letter dated 14 September 1990 from the Permanent Representative of Italy to the United Nations (A/45/517), I am directed to transmit herewith the text of the response of the Government of the Somali Democratic Republic to the statement on Somalia issued on 13 September 1990 by the Twelve States members of the European Community.

I would be grateful if you would have the text of the present letter and the attachment circulated as a document of the General Assembly under item 30 of the agenda.

(Signed) Abdullahi Said OSMAN
Ambassador and
Permanent Representative

ANNEX

Response of the Government of the Somali Democratic Republic to the statement on Somalia issued on 13 September 1990 by the Twelve States members of the European Community

The Government of the Somali Democratic Republic would like to refer to the statement of the States members of the European Community, dated 13 September 1990, which, inter alia, accuses the Somali authorities of human rights violations. The Government of Somalia considers the circulation by the European Community of the statement in question as a United Nations document regrettable. It is surprising that the EC has levelled such a serious charge against the Government of Somalia without providing substantiated evidence.

The truth of the matter is that a group of bandits attacked civilian settlements near Berbera killing over 50 people, which provoked retaliation and tribal conflict, resulting in the killing of a number of civilians in that area. The Government of Somalia categorically denies the involvement of the members of its armed forces in this incident. It, therefore, considers a reference in the said statement to their alleged role in the killings, baseless and unfounded.

It is evident that the statement, while highlighting an isolated incident to portray a picture of insecurity of life and property in Mogadishu, fails to refer to the concrete steps taken by the Government of Somalia, not only towards the liberalization of the political processes but also the improvement of the law and order situation in the country. In fact, only a few days ago, the Government introduced far-reaching reforms including the implementation of the new Constitution. All the laws which are contrary to or inconsistent with the Constitution have been abolished. Further, legislation has been introduced for the holding of elections for a multi-party democracy, for the functioning of political parties and for the freedom of the press. In addition a decision has been adopted to release all political prisoners.

The Government of the Somali Democratic Republic hereby declares its firm determination to take concrete measures to protect the life and property not only of its citizens but also of the many foreign nationals who reside in the country. It is, however, unfortunate that opposition groups, instead of co-operating with the Government in this endeavour, have been resorting to acts of violence in order to disrupt internal security and undermine law and order. The Government once again appeals to these groups to respond positively to its call for a meaningful dialogue towards national reconciliation, in order to put an end to internal conflict and lay down a solid foundation for lasting peace and security in the country.

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SPECIAL ECONOMIC AND DISASTER RELIEF ASSISTANCE: SPECIAL PROGRAMMES OF ECONOMIC ASSISTANCE

Assistance to Democratic Yemen*

Report of the Secretary-General

INTRODUCTION

1. The General Assembly at its forty-fourth session, adopted resolution 44/179 on 19 December 1989, in which it expressed deep concern at the extensive and unprecedented damage and devastation in Democratic Yemen caused by torrential rains and floods twice in the present decade, in March 1982 and April 1989 and extreme concern about the destruction of the country's infrastructure, and further expressed concern that tens of thousands of hectares of cultivated land were inundated and that hundreds of villages had completely disappeared, leaving tens of thousands of persons without shelter or food.

2. The General Assembly, considering that Democratic Yemen, being one of the least developed countries, was unable to sustain rehabilitation and reconstruction programmes in spite of the efforts made by its Government, called upon all States to contribute generously and to respond urgently and effectively to the rehabilitation and reconstruction needs of the country, and requested the Secretary-General to co-ordinate, in close co-operation with the Government of Democratic Yemen, the efforts of the United Nations system to help Democratic Yemen to mobilize resources for the implementation of its rehabilitation and reconstruction programmes and to keep the international community informed of its needs.

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* On 22 May 1990 Democratic Yemen and Yemen merged to form a single State. Since that date they have been represented as one Member with the name "Yemen".

3. The present report updates and complements information contained in the report of the Secretary-General (A/45/358 and Add.1) related to activities carried out by UNICEF, ESCWA and UNDRO in furtherance to General Assembly resolution 44/179. It contains further information on resources provided and activities carried out to date, by other organs, organizations and bodies of the United Nations system, by non-Governmental organizations and Member States, in response to the rehabilitation and reconstruction programmes of the Government of Yemen.

1. Background

4. In March 1982, torrential rains and floods caused unprecedented damage and devastation to Democratic Yemen's infrastructure, to thousands of hectares of cultivated land and hundreds of villages, leaving a large number of persons without shelter or food.

5. The damage, as reported in document A/42/442, was estimated by the Government at $US 950 million, 482 dead, 12,000 scattered families (about 50,000 persons), 25,000 houses destroyed by the floods and 50,000 animals killed.

6. In March/April 1989, a similar disaster struck the country causing heavy destruction and leaving 100,000 killed or homeless. A number of rehabilitation projects implemented following the 1982 flood were also destroyed.

7. These two disasters compelled the Government to re-direct a substantial part of its limited financial resources from development objectives to reconstruction work, impairing the implementation of the objectives of the second five-year plan and incurring delays in the implementation of the third five-year plan (1986-1990).

2. Political changes

8. On 22 May 1990, the Republic of Yemen was established through the unification of the Yemen Arab Republic and the People's Democratic Republic of Yemen.

9. The rehabilitation and reconstruction requirements deriving from the 1982 and 1989 floods which affected the southern region represented a major additional cost to the Republic of Yemen particularly in the economic field as it pursues a complex unification process. These developments have also brought to the fore Yemen's needs to build up a national capacity to manage both development and disasters.

3. Economy

10. Despite the ongoing rigid procedures constraining expenditure of hard currency, imports increased in 1987 by 24 per cent compared to 1986, while the value of the exported non-oil products have decreased by 13 per cent within the same period. Furthermore, the financial transfer of expatriate Yemenis remained the same in 1987 as 1986, i.e. $US 282 million. Hard currency earnings decreased in recent years for three consecutive years to $104 million, representing less than

two thirds the external debt interest payments due in 1988. Although these constitute the latest official figures available, it is obvious that the situation has worsened in recent months.

11. The preliminary note dated 13 September 1990 from the Government of Yemen, referred to in the Secretary-General's report on the economic impact on Yemen of the Gulf crisis, indicates an initial loss of $1,684 million, not taking into account economic and social impact of some 35,000 Yemeni workers returning from Kuwait. The Government of Yemen has further informed that this has been compounded in September and the first half of October 1990 by 400,000 Yemeni workers returning from Saudi Arabia.

4. Relief, rehabilitation and reconstruction programmes

12. Rehabilitation and reconstruction programmes, carried out in the framework of multilateral and bilateral assistance, in the aftermath of the 1982 flood relief, have been completed, as indicated in previous relevant reports.

13. In view of the heavy destruction incurred by the 1989 flood, further assistance is required. The Republic of Yemen, created through the unification of two least developed countries, is unable to sustain rehabilitation and reconstruction programmes in spite of the efforts made by the Government. This is clearly reflected in General Assembly resolution 44/179.

14. Pursuant to resolution 44/179, information on UNICEF, ESCWA and UNDRO channelled emergency relief assistance from multilateral and bilateral sources is provided in addendum 1 to the report of the Secretary-General (A/45/358/Add.1).

15. Information provided in relevant parts of the report of the Secretary-General (A/45/358), and additional information updating this report referred to above, desegregated, show the following situation in relief, rehabilitation and reconstruction assistance provided to Yemen to date:

(a) Rehabilitation and reconstruction assistance

1. UNDP: PDY/89/020 Rehabilitation and Reconstruction of Flood Damage - $US 1,016,500

16. Approved in February 1989 through a Special Programme Resources (SPR) allocation. This project is to assist the Government of the Republic of Yemen in managing and implementing a flood reconstruction programme aimed at restoring vital physical infrastructure following the 1989 floods. It will strengthen the national capacity to manage disaster recovery programmes by providing technical assistance and training for the Ministry of Planning and Development and related line ministries through the establishment of an Emergency Reconstruction Unit.

2. IDA/World Bank: Emergency Flood Reconstruction Project - SDR 7.9 million

17. A six-months flood mitigation and preparedness study funded under an IDA credit will commence early in 1991. Based on the findings of the study, in-service training programmes are planned for staff of the Emergency Reconstruction Unit referred to in the preceding paragraph, in order to build national capacity for reconstruction programme management which may be drawn upon in future flood emergencies.

3. Islamic Development Bank

18. The Bank contributes also to this multi-sectoral reconstruction effort underway in four Governorates at the level of $US 2 million.

(b) International contributions to the relief efforts and rehabilitation of flood victims

	$US
United Nations system (UNDP/UNICEF/UNDRO/WFP/WHO)	1 140 000
Bilateral sources (Australia, Bahrain, France, Germany, Italy, Japan, Kuwait, Norway. Oman, Saudi Arabia, United Arab Emirates, United Kingdom, USSR)	1 900 106
Other intergovernmental and non-governmental sources	647 158
Total	3 687 264

(c) Aid co-ordination

19. At the request of the Government, preparations for a Round Table Conference for the Republic of Yemen to take place in 1991 have recently been launched. Such a process will encompass the country's requirements for further assistance in strengthening its capacity to manage disaster recovery programmes.

20. Although unification of the former People's Democratic Republic of Yemen and the Yemen Arab Republic is expected to result progressively in stronger political and economic structures, the damage to the southern region of the country resulting from the heavy rains and flooding in March 1989 must be further addressed. There also remains a concomitant need to build up national capacity to manage disaster recovery programmes in the country as a whole.

21. Further generosity and expeditious assistance of the international community to the Government of Yemen could contribute to alleviating the burden of reported natural disasters.